



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,983	01/08/2002	Mary A. Lamp	72847	7682

22242 7590 08/15/2002

FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 08/15/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/042,983

Applicant(s)  
Lamp et al.

Examiner  
Lien Tran

Art Unit  
1761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan. 8, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

Art Unit: 1761

1. Claims 9-15 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a product having a shelf life of about 3 months, does not reasonably provide enablement for a product having shelf life longer than 3 months. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to carry out the invention commensurate in scope with these claims.

Claim 9 recites that the product has a shelf life at refrigeration temperatures for a periods of at least 3 months. At least 3 months include 3 month up to years and there is no evidence in the specification to show that the product has a shelf life at refrigeration temperatures for years.

2. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldmeier et al in view of Loose, Goglanian, Cochran et al, The Encyclopedia of Chemical Technology, The Baking Science & Technology and Atwell.

Feldmeier et al disclose a kit containing compartmentalized, hermetically sealed package with a refrigerated baked flour-containing component or dough component and other food components. The plurality of components are hermetically sealed from each other and from the environment. The hermetically sealed packages are sealed within a rigid tray. The dough components are hermetically sealed within a gas-flushed film container. The other food components can be meat, cheese, condiments etc... Each of the food components is separately compartmentalized, separately wrapped and/or hermetically sealed. Individual components could be gas flushed or vacuum sealed. On column 9, Feldmeier et al disclose a basic recipe of bread roll which comprises flour, shortening, wheat gluten, yeast, starch degrading enzyme, gum, egg

Art Unit: 1761

white, monoglyceride and corn syrup. They also disclose gums such as guar, and xanthan can be added to improve the long-term texture of the crumb.

Feldmeier et al do not specifically disclose bread stick with perforation so that it can be broken into at least two individual pieces, the water activity and the dough recipe does not contain ingredients such as salt, dough relaxer, sodium stearoyl lactylate and calcium propionate. Also, they do not disclose that the package does not contain an anti-fogging agent.

Goglanian discloses pita bread with perforation so that it can be broken into two (see the abstract).

Loose discloses a biscuit product with perforation so that it can be broken into different portions (see col. 1).

Cochran et al disclose on column 3 lines 35-40 that common baked goods such as bread, dinner rolls typically have a water activity in the range of about .9-.98.

Atwell discloses a refrigerated dough in which a dough relaxer may be added to facilitate sheeting of the dough (see column 5 lines 13-16).

The book " Encyclopedia of Chemical Technology" teaches salt is used in bread making to provide flavor, moderate yeast fermentation and toughen gluten proteins. It also teaches to add mold inhibitors such as calcium propionate to bakery foods to extend shelf life.

The book " Baking Science & Technology teaches to use dough conditioners such as sodium stearoyl lactylate in bread making . The condition acts to produce measurable increase in dough absorption, an improved mixing tolerance and machinability of the dough, an accelerated

Art Unit: 1761

final proof, an increase in loaf volume, improvements in grain and texture, greater crust tenderness and extended keeping properties.

The exclusion of the anti-fogging agent does not define over Feldmeier et al. Feldmeier et al disclose the anti-fogging agent further assists in maintaining freshness and retarding staling. By this disclosure, they recognize that without the anti-fogging agent, the product still has shelf stability but the anti-fogging agent enhances the shelf life. Thus, it would have been obvious to one skilled in the art to exclude the fogging agent depending on the cost/benefit factor. The adding of the fogging agent increases the cost of production. If the product is intended for sale in a short period of time and the benefit offered by the fogging agent is not needed, it would have been obvious to exclude the fogging agent. It would have been obvious to exclude the fogging agent depending if the cost outweighs the benefit or the benefit outweighs the cost. It would also have been obvious to one skilled in the art at the time of the invention to add a dough relaxer, salt, sodium stearoyl lactylate and calcium propionate to the dough disclose by Feldmeier et al for their well known function as taught by the prior art. As to the amount, it is within the skill of one in the art to determine the amounts. Feldmeier et al do not disclose bread stick; however, bread stick only differs from bread in the shape and it would have been obvious to make the bread in any shape desired. This would have been an obvious matter of choice. While Feldmeier et al are silent on the water activity, Cochran et al disclose that the water activity of baked goods such as bread is in the range of about .9 -.98. Thus, the water activity claimed is common to baked products and it is expected the baked products in the prior art have similar water activity. It

Art Unit: 1761

would also have been obvious to put perforation in the baked product as taught by Loose and Goglanian if it is desired to separate the product into different portions. Such concept is well known in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is (703) 308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

August 9, 2002

  
LIEN TRAN  
PRIMARY EXAMINER  
*Group 1702*